

REMARKS

Claims 1-20 are pending and under consideration. Claims 1 and 12 have been amended herein. Upon entry of the present Amendment, claims 1-20 will remain pending and under consideration. Paragraphs [0008]-[0011], [0013]-[0016], [0018]-[0021], [0024], [0026], [0027], and [0029] of the specification are amended herein. Amended Figures 1, 2A-2D, 3A and 3B are provided in Exhibit A as replacement formal drawings.

The amendments and newly added claims do not add new matter. The amendment to claim 1 is supported, for example, by claims 3 and 4 as originally filed. The amendment to claim 12 corrects a typographical error. The amended specification paragraphs have been amended to include additional references to the figures, and as such are supported by the Figures as filed. Furthermore, the amendments to paragraph [0008] are supported, for example, by claims 9 and 10 as filed. The amendments to paragraph [0009] are supported, for example, by paragraph [0001] and claim 1 as filed. The amendments to paragraph [0010] are supported, for example, by Figures 2A, 2B, 3A, and 3B, as well as claims 1 and 2 as filed. The amendment to paragraph [0011] is a statement added for clarification. The amendments to paragraphs [0013]-[0015] are supported by Figures 3A and 3B and claim 1 as filed. The amendments to claim 16, are supported by Figures 3A and 3B, claim 1 as filed, and paragraphs [0034]-[0035]. The amendments to paragraph [0018] are supported by Figures 2A, 2B, 3A, and 3B, as well as claim 4 as filed. The amendments to paragraph [0019] are supported by Figures 2A, and 3A. The amendments to paragraph [0020] are supported by Figures 2A and 3A. The amendments to paragraph [0021] are supported by Figure 3A. The amendments to paragraph [0024] are supported by Figures 1 and 2A. The amendments to paragraph [0026] are supported by Figure 2A. The amendments to paragraph [0027] are supported by Figure 2B. The amendments to paragraph [0029] are supported by Figure 2A.

The amendments submitted herewith do not require a new search or raise new issues for consideration because they merely address issues already raised by the Examiner or define Applicant's invention more clearly. It is submitted that the amendments place the claims in condition for allowance or in better condition for appeal by reducing the number of issues for

consideration on appeal. The amendments were not made earlier in the prosecution because it is maintained that the previously pending claims were allowable. Since the amendments do not add new matter or require a new search or consideration, and place the claims in condition for allowance or in better condition for appeal, entry of the amendments is respectfully requested.

A. Objections to the Drawings

The Office Action objects to the drawings because allegedly proper drawing corrections were not submitted that include cross-hatching in Figures 1 and 2 (citing the requirement for red-lined drawings and a separate letter to the draftsman (MPEP 608.02 (r) and (v))). Furthermore, the Office Action alleges that the legends for Figs. 2A, 2B, 2C, 2D, and 3B are missing, and that reference numerals "2," "3" and "4" denote different elements between Figures 2 and 3, and that reference numeral "6" denotes different elements between Figures 1 and 3. 37 CFR §1.121, effective July 30, 2003, is silent with respect to providing red-lined sheets for a draftsman. It is also noteworthy that the requirement for annotated drawings is at the discretion of the Examiner.

Applicants have resubmitted replacement Figures 1 and 2A-2D with cross hatchings (Exhibit A). Furthermore, reference numerals "2," "3," "4," and "6" in Figures 1 and 2A-2B have been replaced with new numbers 202, 203, 204, and 210. An Annotated sheet showing the changes to the drawings has been submitted as Exhibit B. In addition, a red-lined sheet showing the changes in red ink is attached to the letter to the draftsman, filed herewith.

Regarding legends for Figures 2A, 2B, 2C, 2D, and 3B, the legends were provided on page 2 of the Response mailed April 24, 2003. These legends for the figures are found in paragraphs 24, 26-29, and 43. Accordingly, Applicants request withdrawal of the objection to the drawings.

B. Objections to the Specification

The Office Action objects to the specification as failing to provide proper antecedent basis for the claimed subject matter. The Office Action asserts that the specification does not

provide proper antecedent basis for "device," "feature," "partition wall," "water-free," the "method" of claims 9 and 10, and the subject matter of claims 4, 7, 8, 14, and 17. Furthermore, the Office Action asserts that claim terminology in mechanical cases should appear in the descriptive portion of the specification by reference to the drawings.

With reference to the term "device," Applicant submits that sufficient support for the devices recited in the claims, such as claim 1, exist in the specification as amended. Amended paragraphs 10, 13, 14, and 15, for example, provide literal support for the various devices recited in the independent device claims with reference to the figures.

With reference to the term "feature," amended paragraphs 10 and 16 support this term with reference to the figures. Those skilled in the art would readily understand that this term refers to the mechanism by which the flushing valve is blocked and unblocked.

With respect to "water free," FIGS. 2A-2D and amended paragraphs 9 and 10, which refer to the figures, disclose exemplary methods and device assemblies and designs for keeping the urine outlet water free.

With reference to the term the methods of claims 9 and 10, amended claim 8 provides literal support for methods of claims 9 and 10 with reference to figure elements. In addition, amended paragraph 10 provides support for methods claims with more specific references to the figures.

With reference to the term "partition wall" this feature is claimed as not being included in the device. Therefore, no drawing showing a partition wall is included. A partition wall is discussed in the specification, for example at paragraph [0002]. As indicated in the specification, a partition wall is included in urine separating toilets known in the art, but is not included in at least certain aspects of the device for a urine separating toilet of the present invention.

Moreover, with respect to all three terms in question, Applicant submits that the original claims as filed are considered part of the specification. Since the terms in question appear in the original claims as filed, it is respectfully submitted that the issue of "antecedent basis" does not apply, i.e., antecedent basis inherently exists with respect to every term used in

the original claims to define the invention, so long as those terms define the invention with a reasonable degree of clarity and precision (see MPEP § 2173.05(e)). In this case, it is respectfully submitted that the terms "device", "feature", "partition wall," and "method" do indeed define the invention with a reasonable degree of clarity and precision. Accordingly, for all of the reasons set forth above, withdrawal of this objection to the specification are respectfully requested.

C. Rejection Under 35 U.S.C. § 112, first paragraph

The rejection of claims 1-20 under 35 U.S.C. §112, first paragraph, as allegedly containing subject matter which was not described in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention, is respectfully traversed. Applicants respectfully disagree with the Examiner's allegation that the specification does not teach one skilled in the art how to make and/or use the invention commensurate in scope with the claims.

"The amount of guidance or direction needed to enable an invention, is inversely related to the amount of knowledge in the state of the art as well as the predictability of the art." MPEP 2164.03 citing In re Fisher, 427 F.2d 833, 839 (CCPA 1970). A patent need not teach, and preferably omits, what is well known in the art. MPEP §2164.01 (citations omitted).

Specifically, with respect to cover "C", Applicants respectfully disagree with the Examiner's allegation that the claimed invention is insufficiently disclosed to enable one skilled to understand the structure of, and cooperation between the elements which comprise the invention. In response to the Applicant's arguments in the Response mailed April 24, 2003, the Office Action alleges that when the cover C is lifted, blocking-plug 11 appears to seal the blocking-hole 12 by the plug snapping into the hole. The Office Action is correct in its assertion that when the cover C is lifted including seal B, which opens the urine outlet, and including blocking-plug 11, the blocking-hole 12 is sealed by blocking-plug 11, as disclosed in paragraph [0034]. This causes a blockage for flush button D via axis 23, 15 and 17.

The Office Action alleges with respect to claims 1, 9, 11, and 19 that the specification does not teach a "urine separating toilet... for separately collecting and draining faeces and urine." Applicants respectfully assert that the entire specification is directed toward a device for use with a urine separating toilet. Furthermore, urine separating toilets are well known in the art. In fact, the first urine separating toilet was invented in the late 19th century. Hundreds of different urine-separating toilet models have been disclosed since that time (See e.g., U.S. Pat. No. 3,336,602 (Exhibit D), U.S. Pat. No. 5,873,136 (Exhibit E), U.S. Pat. No. 5,448,784 (Exhibit F), U.S. Pat. No. 4,197,598 (Exhibit G), and PCT Publication No. 92/19824 (Exhibit H)), and about 20 different models of urine-separating toilets are on the market currently.

A common feature of previous urine-separating toilets is the partition wall between the urine outlet and the fecal outlet (See e.g., paragraph [0002]). It is taught in the present disclosure (See e.g., paragraphs [0009] – [0018]), that the partition wall becomes obsolete by the pressure controlled urine outlet. If a person sits down on a toilet equipped with a device of the present invention, the urine outlet opens, and the toilet flushing is blocked. The feces falls into the rear part of the toilet bowl, whereas the urine rinses water-free (undiluted) through the urine outlet. If the person rises, the urine outlet gets closed, and the flushing device can be operated again, flushing the entire toilet bowl. Thus, the present invention eliminates the need for a separation wall in a urine-separating toilet.

The Office Action alleges that no ability to separate urine and feces has been disclosed, alleging that Fig. 1 illustrates the urine siphon and faecal siphon in communication with the same toilet bowl and noting claims 3 and 13. The Office Action is correct in asserting that the urine siphon and faecal siphon are in communication with the same toilet bowl. However, as indicated above, the device for opening the urine outlet, the device for closing the urine outlet, and the decoupling of the toilet-flushing mechanism, assure that urine enters the urine siphon whereas faeces enters the faecal siphon (see e.g., paragraphs [0013] – [0016]). Furthermore, the location of the urine outlet, optionally bulging protrusions, and the shape of the toilet bowl assist in assuring that urine is collected separately from faeces (see paragraph [0009]).

Accordingly, the specification teaches how urine and feces are separated using the device of the present invention.

Regarding claims 1 and 11, the Office Action alleges that the recitation of "a device for flushing the entire toilet bowl," is neither taught by the instant disclosure, nor evident by the Examiner. A device for flushing the entire toilet bowl of a toilet is the most commonly known mounting in a standard toilet (also known as a water closet) or a urine-separating toilet. For example, U.S. Pat. No 5,873,136 (Exhibit E) discloses a conventional flush control 22 (Col. 3, lines 52-62). Therefore, a device for flushing an entire toilet is well-known in the art. As indicated above, it is not necessary for a patent application to disclose that which is well-known in the art, and in fact it is preferable to omit what is well known in the art (MPEP §2164). This is especially true in a predictable art, such as the present art. Accordingly, Applicant respectfully asserts that it is not necessary that the present specification disclose the details of a device for flushing an entire toilet, which is well-known and commonly used throughout the art. Therefore, based on the reference for example in paragraph [0012] to flushing the toilet by an activatable flush button, one skilled in the art knows how to make and use an assembly for flushing the entire toilet bowl.

With respect to claims 7 and 19, the Office Action indicates that designing a fecal outlet as a vacuum drain is neither taught by the present disclosure nor evident to the Examiner. The design of a faecal outlet as a vacuum drain is also known to a person skilled in the art. In fact, vacuum drained toilets have been known and used in the art for over one hundred years. For example, such vacuum drains are widely known, for example, in toilets used on jets, trains, and ships, as is known by a skilled artisan. Therefore, Applicant respectfully asserts that vacuum drains are well known in this predictable art, and therefore, it is not necessary that the present application discloses details regarding how to make and use a vacuum drain.

With respect to claim 18, the Office Action asserts that implementation of a water free urine outlet is not taught in the specification and is not evident to the Examiner. The specification including the drawings, provide details regarding how the urine outlet is kept water-free. For example, the specification discloses that activation of the toilet flush-button

can suspend the functioning of the urine outlet, until the flushing procedure is completed, to prevent the entrance of flushing water into the urine outlet during sitting and pushing of the flush-button (Paragraph [0018]). Furthermore, the specification discloses how the shape of the toilet, location of the urine outlet, and the inclusion of bulging protrusions assures that urine enters the urine outlet water-free (FIGS 2A-2D, paragraph [0009] (pt. 3), and paragraph 10).

Finally, with respect to the general allegation that the claimed invention is not sufficiently disclosed to enable one skilled in the art to make and use the invention, it is noteworthy that a toilet accordingly to one aspect of the invention has been successfully produced (www.roevac.de, "No Mix Toilets" Exhibit C) based on the disclosure in the patent application, further supporting the conclusion that the present disclosure is enabling. Therefore, for all the above reasons Applicants assert that one skilled in the art is able to make and use the claimed invention.

In re Application of
Ulrich Braun
Application No.: 09/890,113
Filed: January 7, 2002
Page 19

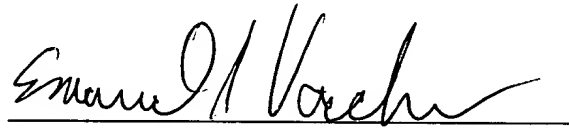
PATENT
Attorney Docket No.: VOSS1170

CONCLUSION

In view of the above amendments and remarks, reconsideration and favorable action on all claims are respectfully requested. The Examiner is invited to contact Applicant's undersigned representative if there are any questions relating to this application. Please charge any additional fees, or make any credits, to Deposit Account No. 50-1355.

Respectfully submitted,

Date: December 12, 2003

A handwritten signature in dark ink, appearing to read "Emanuel J. Vacchiano", is written over a horizontal line.

Emanuel J. Vacchiano, J.D., Ph.D.

Reg. No. 43,964

Telephone: (858) 638-6754

Facsimile: (858) 677-1465

CUSTOMER NUMBER 28213
GRAY CARY WARE & FREIDENRICH LLP
4365 Executive Drive, Suite 1100
San Diego, California 92121-2133

Enclosure: Exhibits A-H